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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,280	10/29/2003	Hiroyasu Nishiyama	81940.0060	6493

26021 7590 11/13/2007

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

EXAMINER	
NGUYEN, PHILLIP H	
ART UNIT	**PAPER NUMBER**
2191	

MAIL DATE	DELIVERY MODE
11/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/696,280	Applicant(s) NISHIYAMA, HIROYASU	
	Examiner Phillip H. Nguyen	Art Unit 2191	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

MARY STEELMAN
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:
Applicant asserts that Desoli fails to teach "a native code emulator that executes the native code through hardware emulation"
Examiner respectfully disagrees with the allegation. First, Desoli teaches "an emulation system 100 is configured to execute software written for a computer system, which is different from that of a host computer system, by emulating the original computer system in a virtual machine environment" (see col. 3, lines 30-34). Desoli further teaches "emulation system 100 is also configured to execute native code that is integrated with the emulated code. The emulation system comprises an emulator 102, DELI 104, and hardware 106..." (see col. 3, lines 48-52). In other words, the system 100 itself is an emulated system that emulating the original system. Every element in the emulation system is emulating the original element of the original system. Therefore, the hardware 106 is an emulated hardware not the original hardware. Second, even assuming that the hardware 106 is not an emulated hardware and the native code is executed by the hardware 106. Desoli also teaches "Native code 118 may also be executed via DELI 104" (see col. 4, lines 64-65). Furthermore, Desoli teaches "DELI 104 comprises a generic software layer written in a high or low level language that resides between applications (i.e., emulator 102), including or not including an operating system (O/S), and hardware to unite application binary code from the hardware. Through this arrangement, DELI 104 may provide dynamic computer program code transformation, caching, and linking services that can be used in a wide variety of different applications such as emulation, dynamic translation and optimization, ...DELI 104 automatically takes control of an executing program in a manner in which the executing program is unaware that it is not executing directly on computer hardware." (see col. 3, lines 57-67 - col. 4, lines 1-11). In other words, DELI 104 is acting as hardware to execute the native code in which the executing program is unaware that it is not executing directly on computer hardware.
Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1] Interpretation of Claims-Broadest Reasonable Interpretation. During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification.
Applicant always has the opportunity to amend the claims during the prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).